

REMARKS

Applicant thanks the Examiner for acknowledging the claim for priority under 35 U.S.C. § 119, and receipt of a certified copy of the priority document submitted October 24, 2003. Applicant also thanks the Examiner for considering the references cited with the Information Disclosure Statements filed October 24, 2003, and May 25, 2004, and also for indicating that the Formal Drawings filed May 25, 2004, are accepted.

Specification Objection

The Examiner has objected to the Specification alleging that the title of the invention is not sufficiently descriptive. The title has been amended to reflect the Examiner's recommendation. Thus, withdrawal of this objection is respectfully requested.

Claim Rejections

Claims 1-10 have been examined. For the following reasons it is submitted that these claims are patentable and therefore the rejections of claims 1-10 should be reconsidered and withdrawn.

Anticipation Rejection

The Examiner has rejected independent claim 1 and its dependent claims 2-4 and 10 under 35 U.S.C. § 102(e) as being anticipated by Kimiaki (JP Application Publication 2002/252687; hereinafter "Kimiaki"). Applicant respectfully points out that Kimiaki, being a Japanese published patent application can not be prior art under 102(e). However, a publication having a publication date of September 6, 2002, is prior art under 102(b), where the subject application has a U.S. filing date of October 24, 2003.

Claim 1

Applicant submits that Kimiaki fails to disclose or suggest at least “a light emitting surface directed in a direction that is at an angle greater than zero degrees to the surface of the wiring board,” as recited in claim 1. In contrast, Kimiaki, which was referenced in the present Application within the Description of Related Art, discloses that the light emitting surface of LED 4 is parallel to the surface of circuit board 3 to which the LED 4 is coupled. Therefore, in this arrangement the emitted light is directed toward the optical refraction sheet 5, which then refracts the light rays normal to the transparency aperture (window) 2 opposite the circuit board 3. (See Fig. 4). Thus, in Kimiaki, the light emitting surface of LED 4 is in the same direction as the circuit board 3 surface. (Fig. 4, par. 15).

As explained in the Description of Related Art, the Kimiaki reference suffers the disadvantage of requiring increased mobile phone thickness if the window is to be expanded, which results directly from the positioning of the light emitting surface in the same direction as the circuit board surface. Thus, in view of the foregoing, Applicant respectfully requests that the rejection of claim 1 be reconsidered and withdrawn. Further, Applicant respectfully submits that rejected dependent claims 2-4 and 7-10 are allowable at least by virtue of their dependency on claim 1, and for the additional limitations cited therein.

Obviousness Rejection

Dependent Claim 6

The Examiner has rejected claim 6 under 35 U.S.C. § 103(a) as being unpatentable over Kimiaki in view of Ariga et al. (U.S. Patent No. 5,486,816; hereinafter “Ariga”). This rejection is respectfully traversed.

The Examiner admits that Kimiaki fails to teach or suggest a light emitting diode of the side emitting type. (Office Action, pg. 5, 2nd par.). The Examiner applies Ariga in an attempt to make up the deficiencies of Kimiaki. Applicants respectfully submit that Ariga fails to make up the deficiencies of Kimiaki.

As an initial matter, there is no suggestion to one skilled in the art to combine the teachings of Ariga with those of Kimiaki. One reason is that Ariga is non-analogous art. It has been held that a reference is non-analogous art where the reference is : (1) not within the Applicant’s field of endeavor; nor (2) reasonably pertinent to the problem to which the invention was directed. See *In re Oetiker*, 977 F.2d 1443, 1446 (Fed. Cir. 1992); MPEP § 2141.01(a).

Kimiaki concerns a method of illuminating a window of a communication terminal in homogeneity by using a refractive sheet to redirect the emitted light. In contrast, Ariga addresses photoelectric smoke detection and the problem of broken lead terminals resulting from bending stresses incurred when positioning a light emitting diode on a circuit board. Ariga solves the problem of broken lead terminals by using a side emitting type diode. There is absolutely no similarity between the field of endeavor (i.e. window illumination and photoelectric smoke detection) in these references, or the problems they attempted to resolve (i.e. homogenous

lighting and broken lead terminals). Additionally, in the present Application, Applicant does not allege to have invented the side emitting type diode. Nor was Applicant concerned with the bending stresses in lead terminals.

On the contrary, Applicant's invention solved a problem with the invention of Kimiaki and unrecognized by Kimiaki, wherein the thickness of the communication terminal must increase in order to maintain a homogenously illuminated window when the window size is increased. There is no reason why one skilled in the art faced with the Kimiaki and Ariga references would have recognized the problem of increased device thickness with a corresponding increase in window size. Further, even if one skilled in the art did recognize the problem, there is no teaching or motivation present in the references to combine Ariga with Kimiaki to arrive at the claimed invention. Thus, the only motivation to combine these two references comes from impermissible hindsight using the Applicant's claims as a guide.

Thus, Applicant respectfully submits that dependent claim 6 is patentable over the applied references and Applicants respectfully request that the Examiner withdraw this rejection.

New Claims

Claims 11-12 are hereby added. Claims 11-12 are fully supported *at least* by pg. 5, lines 11-14, and Fig. 3 of the instant Application. Claims 11-12 are respectfully submitted to be allowable by virtue of the features recited therein.

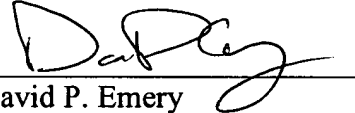
Conclusion

In view of the foregoing, it is respectfully submitted that claims 1-12 are allowable. Thus, it is respectfully submitted that the application now is in condition for allowance with all of the claims 1-12.

If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

Please charge any fees which may be required to maintain the pendency of this application, except for the Issue Fee, to our Deposit Account No. 19-4880.

Respectfully submitted,



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